

in an application for permanent resident status on a conditional basis or a request for DACA may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for permanent resident status on a conditional basis;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony not related to immigration status.

(d) **PENALTY.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

SEC. 9. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) **IN GENERAL.**—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) **EFFECTIVE DATE.**—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-546).

By Mr. THUNE:

S. 389. A bill to deter the trafficking of illicit fentanyl, provide justice for victims, and for other purposes; to the Committee on the Judiciary.

Mr. THUNE. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 389

Be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Justice Against Sponsors of Illicit Fentanyl Act of 2023”.

SEC. 2. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds the following:

(1) International drug trafficking is a serious and deadly problem that threatens the vital interests of the United States and the safety and health of every community in the United States.

(2) Transnational criminal organizations, cartels, and violent gangs are leading perpetrators of drug trafficking, often combining the manufacture and distribution of synthetic opioids with violence, human smuggling and trafficking, firearms trafficking, and public corruption, and pose a sustained threat to the homeland security of the United States.

(3) Illicit fentanyl is primarily produced in clandestine laboratories and trafficked into the United States in powder and pill form, including fentanyl-laced counterfeit pills.

(4) The People’s Republic of China (hereinafter in this section referred to as “China”) is the primary source country of fentanyl precursor chemicals used to manufacture the illicit fentanyl that is trafficked into the United States.

(5) The Commission on Combating Synthetic Opioid Trafficking, established under section 7221 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92), reported in 2022 that China, which supplied 70 to 80 percent of fentanyl seized by Federal authorities between 2014 and 2019, has been surpassed by Mexico as the “dominant source” of illicit fentanyl in the United States.

(6) Illicit fentanyl is primarily trafficked by land into the United States through legal ports of entry, as well as between such ports of entry, with some trafficking facilitated by domestic and foreign-based social media and encrypted communication applications.

(7) In fiscal years 2021 and 2022, U.S. Customs and Border Protection seized over 24,000 pounds of fentanyl at ports of entry, a 200 percent increase from the amounts seized in fiscal years 2019 and 2020.

(8) Deaths caused by the trafficking of illicit fentanyl have reached epidemic proportions, as—

(A) fentanyl was involved in nearly 200,000 deaths in the United States during the period between 2014 and 2020;

(B) the number of drug overdose deaths in the United States surpassed 100,000 during the period between May 2020 and April 2021, of which over 64,000 deaths were related to fentanyl; and

(C) fentanyl and other synthetic opioids caused approximately ⅓ of more than 107,000 fatal overdoses in the United States during 2021.

(9) Overdose deaths remain a leading cause of injury-related death in the United States, and fentanyl-related deaths are the leading cause of deaths among adults aged 18 to 45.

(10) Failure to meaningfully combat illicit fentanyl trafficking will continue to stress the health care and law enforcement resources of the United States.

(11) It is necessary to recognize the substantive causes of action for aiding and abetting and conspiracy liability under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(12) The decision of the United States Court of Appeals for the District of Columbia in *Halberstam v. Welch*, 705 F.2d 472 (D.C. Cir. 1983), which has been widely recognized as the leading case regarding Federal civil aiding and abetting and conspiracy liability, including by the Supreme Court of the United States, provides the proper legal framework for how such liability should function in the context of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(13) Persons, entities, or countries that knowingly or recklessly contribute material support or resources, directly or indirectly, to persons or organizations that pose a significant risk of committing acts of trafficking of illicit fentanyl that threaten the safety and health of nationals of the United States or the national security, foreign policy, or economy of the United States, necessarily direct such conduct at the United States, and should reasonably anticipate being brought to court in the United States to answer for that conduct.

(14) The United States has a compelling interest in providing persons and entities injured as a result of the trafficking of illicit fentanyl into the United States with full access to the court system in order to pursue civil claims against persons, entities, or countries that have knowingly or recklessly provided material support or resources, directly or indirectly, to the persons or organizations responsible for their injuries.

(b) **PURPOSE.**—The purpose of this Act is to provide civil litigants with the broadest possible basis, consistent with the Constitution of the United States, to seek relief against persons, entities, and foreign countries, wherever acting and wherever they may be found, that have provided material support, directly or indirectly, to foreign organizations or persons that engage in the trafficking of illicit fentanyl into the United States.

SEC. 3. RESPONSIBILITY OF FOREIGN STATES FOR THE TRAFFICKING OF FENTANYL INTO THE UNITED STATES.

(a) **IN GENERAL.**—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605B the following:

“§ 1605C. Responsibility of foreign states for the trafficking of fentanyl into the united states

“(a) **DEFINITION.**—In this section, the term ‘fentanyl trafficking’ means—

“(1) means any illicit activity—

“(A) to produce, manufacture, distribute, sell, or knowingly finance or transport—

“(i) illicit fentanyl, including any controlled substance that is a synthetic opioid and any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) that is a synthetic opioid utilized for fentanyl production; or

“(ii) active pharmaceutical ingredients or chemicals that are used in the production of fentanyl;

“(B) to attempt to carry out an activity described in subparagraph (A); or

“(C) to assist, abet, conspire, or collude with any other person to carry out an activity described in subparagraph (A);

“(2) a violation of section 401(a)(1) of the Controlled Substances Act (21 U.S.C. 841(a)(1)) involving manufacturing, distributing, or dispensing, or possessing with intent to manufacture, distribute, or dispense, fentanyl or a fentanyl-related substance in or into the United States;

“(3) an attempt or conspiracy to commit a violation described in paragraph (2);

“(4) having manufactured, distributed, or dispensed, or possessed with intent to manufacture, distribute, or dispense, fentanyl or a fentanyl-related substance outside the United States with the intention of such fentanyl or fentanyl-related substance being distributed or dispensed in or into the United States in violation of section 401(a)(1) or 406 of the Controlled Substances Act (21 U.S.C. 841(a)(1), 846); or

“(5) having produced or manufactured, distributed, or dispensed, or possessed with intent to manufacture, distribute, or dispense, a substance that is a precursor to fentanyl or a fentanyl-related substance with the intention of such precursor, fentanyl, or fentanyl-related substance being distributed or dispensed in or into the United States in violation of section 401(a)(1) or 406 of the Controlled Substances Act (21 U.S.C. 841(a)(1), 846).

“(b) **RESPONSIBILITY OF FOREIGN STATES.**—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury to person or property or death occurring in the United States and caused by—

“(1) an act of fentanyl trafficking in or into the United States; and

“(2) a tortious act or acts of the foreign state, or of any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, regardless where the tortious act or acts of the foreign state occurred.

“(c) **CLAIMS BY NATIONALS OF THE UNITED STATES.**—

“(1) **DEFINITION.**—In this subsection, the term ‘person’ has the meaning given the term in section 1 of title 1.

“(2) **CLAIMS.**—If a foreign state would not be immune under subsection (b) with respect to an act of fentanyl trafficking in or into the United States, a national of the United States may bring a claim against the foreign state in the same manner, and may obtain the same remedies, as a claim with respect to an act of international terrorism brought under section 2333.

“(3) AIDING AND ABETTING LIABILITY.—In an action under paragraph (2) for an injury arising from an act of fentanyl trafficking in or into the United States, liability may be asserted as to any person who aids and abets, by knowingly providing substantial assistance, or who conspires with the person who committed such an act of fentanyl trafficking.

“(4) EFFECT ON OTHER FOREIGN SOVEREIGN IMMUNITIES.—Nothing in paragraph (3) affects immunity of a foreign state from jurisdiction under other law.

“(d) RULE OF CONSTRUCTION.—A foreign state shall not be subject to the jurisdiction of the courts of the United States under subsection (b) on the basis of an omission or a tortious act or acts that constitute mere negligence.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 97 of title 28, United States Code, is amended by inserting after the item relating to section 1605B the following:

“1605C. Responsibility of foreign states for the trafficking of fentanyl into the United States.”.

(2) Subsection 1605(g)(1)(A) of title 28, United States Code, is amended by striking “or section 1605B” and inserting “, 1605B, or 1605C”.

SEC. 4. STAY OF ACTIONS PENDING STATE NEGOTIATIONS.

(a) EXCLUSIVE JURISDICTION.—The courts of the United States shall have exclusive jurisdiction in any action in which a foreign state is subject to the jurisdiction of a court of the United States under section 1605C of title 28, United States Code, as added by section 3(a) of this Act.

(b) INTERVENTION.—The Attorney General, in consultation with the Administrator of the Drug Enforcement Administration, may intervene in any action in which a foreign state is subject to the jurisdiction of a court of the United States under section 1605C of title 28, United States Code, as added by section 3(a) of this Act, for the purpose of seeking a stay of the civil action, in whole or in part.

(c) STAY.—

(1) IN GENERAL.—A court of the United States may stay a proceeding against a foreign state in an action brought under section 1605C of title 28, United States Code, as added by section 3(a) of this Act, if the Secretary of State certifies that the United States is engaged in good faith discussions with the foreign state defendant concerning the resolution of the claims against the foreign state, or any other parties as to whom a stay of claims is sought.

(2) DURATION.—

(A) IN GENERAL.—A stay under this section may be granted for not more than 180 days.

(B) EXTENSION.—

(i) IN GENERAL.—The Attorney General may petition the court for an extension of the stay for additional 180-day periods.

(ii) RECERTIFICATION.—A court shall grant an extension under clause (i) if the Secretary of State recertifies that the United States remains engaged in good faith discussions with the foreign state defendant concerning the resolution of the claims against the foreign state, or any other parties as to whom a stay of claims is sought.

SEC. 5. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of the provisions and amendments to any other person not similarly situated or to other cir-

cumstances, shall not be affected by the holding.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action—

(1) pending on, or commenced on or after, the date of enactment of this Act; and

(2) arising out of an injury to a person, property, or business on or after January 1, 2013.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 38—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. REED submitted the following resolution; from the Committee on Armed Services; which was referred to the Committee on Rules and Administration:

S. RES. 38

SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services (in this resolution referred to as the “committee”) is authorized from March 1, 2023, through February 28, 2025, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;

(2) employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. EXPENSES.

(a) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2023.—The expenses of the committee for the period March 1, 2023, through September 30, 2023, under this resolution shall not exceed \$5,751,700, of which amount—

(1) not to exceed \$37,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed \$11,667 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(b) EXPENSES FOR FISCAL YEAR 2024 PERIOD.—The expenses of the committee for the period October 1, 2023, through September 30, 2024, under this resolution shall not exceed \$9,846,646, of which amount—

(1) not to exceed \$65,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed \$20,000 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2025.—The expenses of the committee for the period October 1, 2024, through February 28, 2025, under this resolution shall not exceed \$4,108,929, of which amount—

(1) not to exceed \$27,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 4301(i))); and

(2) not to exceed \$8,333 may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees paid at an annual rate;

(B) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of the Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; or

(G) the payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper.

(b) AGENCY CONTRIBUTIONS.—There are authorized to be paid from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate such sums as may be necessary for agency contributions related to the compensation of employees of the committee—

(1) for the period March 1, 2023, through September 30, 2023;

(2) for the period October 1, 2023, through September 30, 2024; and

(3) for the period October 1, 2024, through February 28, 2025.

SENATE RESOLUTION 39—AUTHORIZING EXPENSES BY THE COMMITTEE ON VETERANS’ AFFAIRS

Mr. TESTER submitted the following resolution; which was referred from the Committee on Veterans’ Affairs; to the Committee on Rules and Administration:

S. RES. 39

Resolved,

SECTION 1. GENERAL AUTHORITY.

In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans’ Affairs (in this resolution referred to as the “committee”) is authorized from March 1, 2023, through February 28, 2025, in its discretion, to—

(1) make expenditures from the contingent fund of the Senate;

(2) employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.